

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

MURLIN R. PHILLIPS,

Plaintiff(s),

vs.

JON A. KISER, Wayne County Prosecutor,

Defendant(s).

Case No. 1:03CV00159

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff's Motion to Reconsider this Court's June 5, 2007 order denying Plaintiff's Motion for leave to Submit Motion for Summary Judgment Out of Time and for Appointment of Counsel [doc. #61]. Plaintiff was given the opportunity to respond to Defendant's Motion for Summary Judgment, at which time he asserted the facts that supported his allegations and why Summary Judgment ought to be denied. *See Plaintiff's Memo. in Opp. to Def.'s Mot. for Summ. Judgment.* The Court carefully considered those arguments, and reviewed the record before the Court and concluded that Defendant was entitled to Summary Judgment. As a result of this Court's ruling on Defendants' Motion for Summary Judgment, Plaintiff's request for reconsideration is moot.

The Court also notes that Plaintiff requests leave to amend the complaint, in order to add additional parties. Rule 15(a) provides that "[a] party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served. . . . Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; leave shall be freely given where justice so requires." Fed. R. Civ. P. 15(a). The allegations made by

Plaintiff were found by this Court to be insufficient to require a trial on the merits and therefore judgment was entered in favor of Defendant. Plaintiff's request to amend the complaint is therefore moot in light of the Court's recent ruling in favor of Defendant. Furthermore, Plaintiff has provided no evidence that there was a constitutional violation surrounding the conditions of his pre-sentence detention that would warrant this Court allowing Plaintiff to amend the pleadings.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration [doc. #61] is **DENIED as moot**.

Dated this 27th Day of June, 2007.

A handwritten signature in black ink, appearing to read "E. Richard Webber", is written over a horizontal line.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE